

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

MARK SOKOLOW, et al.,

Plaintiffs,

v.

Civ. No. 04-397 (GBD) (RLE)

THE PALESTINE LIBERATION ORGANIZATION, et al.,

Defendants.

**MEMORANDUM IN SUPPORT OF PLAINTIFFS' *EX PARTE* MOTION
TO THE MAGISTRATE JUDGE TO ISSUE A LETTER OF REQUEST
FOR JUDICIAL ASSISTANCE FOR THE DEPOSITIONS
OF ABDEL KARIM AWEIS AND NASSER SHAWISH**

Introduction

Plaintiffs respectfully submit this Memorandum in support of their *Ex Parte* Motion to the Magistrate Judge to Issue a Letter of Request for Judicial Assistance, which seeks the depositions of Abdel Karim Ratab Yunis Aweis and Nasser Jamal Mousa Shawish, who were convicted by an Israeli court for their role in planning and carrying out the March 21, 2002, suicide bombing in which plaintiff Dr. Alan Bauer and his minor son, plaintiff Y.B., were injured, and are currently serving multiple life sentences in Israeli prisons.

Because “a party lacks standing” to oppose discovery from “someone who is not a party to the action,” *Saperstein v. PA*, 2010 WL 1371384 at *3 (E.D.N.Y. 2010), the plaintiffs are filing this application as an *ex parte* motion, and respectfully request that the Court issue the Letter of Request attached hereto as Exhibit A, for the reasons set forth below, forthwith.

Relevant Background and Argument

This is a civil action pursuant to the Antiterrorism Act (“ATA”), 18 U.S.C. § 2333, and pendent causes of action, brought by U.S. citizens, and the guardians, family members and the

personal representatives of the estates of U.S. citizens, who were killed and injured in seven terrorist attacks carried out by defendants Palestinian Authority (“PA”) and Palestine Liberation Organization (“PLO”) between January 8, 2001 and January 29, 2004, in or near Jerusalem.

One of those attacks was a March 21, 2002, suicide bombing in which plaintiff Dr. Alan Bauer and his minor son, plaintiff Y.B., were severely maimed.

The bombing was initiated and planned by two officers in defendant PA’s security services, Abdel Karim Ratab Yunis Aweis (“Aweis”) and Nasser Jamal Mousa Shawish (“Shawish”), both of whom were later convicted by an Israeli court for their roles in the attack. Both men were sentenced to and are now serving multiple life sentences in Israeli prisons.

The plaintiffs are naturally desirous of deposing Aweis and Shawish in order to obtain testimony confirming their involvement in, the PA’s liability for, this bombing.

Because Aweis and Shawish are imprisoned in Israel they are not subject to the direct process of this Court. However, the Hague Convention on the Taking of Evidence Abroad in Civil or Commercial Matters of March 18, 1970 (“Hague Convention”) provides for the taking of depositions abroad by means of “letters of request.” Thus, the Court can request that Israel produce Aweis and Shawish to be deposed by counsel for the parties. In related actions brought in recent years against the PLO and the PA under the Antiterrorism Act, the federal courts have issued numerous such requests under the Hague Convention for depositions of the terrorists convicted of the underlying attacks, and Israeli authorities have granted all such requests.

In fact, the plaintiffs in the parallel matter of *Gilmore v. Palestinian Authority*, Civ. No. 01-00853-GK (D.D.C.) just recently took Aweis’ deposition in that case pursuant to a Hague Convention request issued by the U.S. District Court for the District of Columbia.

Similarly, on December 20, 2011, this Court issued a letter of request for the deposition of prisoner Abdullah Barghouti, and within just one month – on January 21, 2012 – the Israeli government approved the request and sent it to Judge Anna Schneider of the Jerusalem Magistrates Court for execution.

A proposed Letter of Request, which follows the format previously issued by the Court in respect to Barghouti, is attached hereto as Exhibit A.

WHEREFORE, the instant motion should be granted, and the Letter of Request attached hereto as Exhibit A should be endorsed and issued by the Court forthwith.

Plaintiffs, by their Attorney,

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